(1) Cr Col 4

IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH AT BILASPUR

Single Bench

SECOND APPEAL NO. 23/2006

Appellants - Plaintiff

1. Rakesh Kumar son of Siddhanath Pandey aged 32 years
2. Hitesh Kumar aged 32 years son of Siddhanath Pandey
3. Rajesh Kumar aged 26 years son of Siddhanath Pandey
4. Prafull Kumar age 20 years son of Siddhanath Pandey
5. Pradeep Kumar aged 18 years son of Siddhanath Pandey
6. Ku. Suman aged 22 years daughter of Siddhanath Pandey

all of them resident of Telipara Bilaspur, Distt. Bilaspur (C.G.)

P.R. No. 3229/05
Presented by Shri Avinash Keshari
dated 21/12/05

VERSUS

Respondents - Defendents

1. Sub Divisional Officer Rajnandgaon & Conpetent Authority under Ceiling Act Rajnandgaon (C.G.)
2. State of Chhattisgarh through Collector Rajnandgaon (C.G.)
3. Awadhesh Kumar aged 32 years son of Rameshwar Mishra Resident of Ambagarh Cowki, Tahsil Ambagarh Cowki, Distt. Rajnandgaon (C.G.)
4. Smt. Kanak Shukla aged 40 years wife of Vijay Kumar Shukla r/o Dalli Rajhara, Tahsil Balod Distt. Durg C.G.)
5. Smt. Meena Pandey aged 30 years wife of Rajendra Pandey r/o Nutan Colony, Tahsil & Distt. Bilaspur (C.G.)
6. Smt. Manisha Pandey aged 36 years wife of Dwarika Pandey r/o Mungeli, Tahsil Mungeli, Distt. Bilaspur (C.G.)
7. Smt. Kusum Shukla aged 30 years wife of Ajay Kumar Shukla r/o Khmhi Bajar, Tahsil Mungeli, Distt. Bilaspur (C.G.)

RECEIVED COPY
20.12.05
CLERK to A. G. BILASPUR

(2)

MEMORANDUM OF SECOND APPEAL UNDER SECTION 100 OF THE CODE OF CIVIL PROCEDURE AGAINST THE JUDGEMENT AND DECREE DATED 20.10.2005 PASSED BY DISTRICT JUDGE RAJNANDGAO DISTRICT RAJNANDGAON (C.G.) IN CIVIL APPEAL NO. 52 A/2003 WHICH IS ANNEXED AS **ANNEXURE A-1** AFFIRMING THE JUDGEMENT AND DECREE DATED 28.01.2000 PASSED BY CIVIL JUDGE CLASS-I AMBAGARH COWKI DISTRICT RAJNANDGAON IN CIVIL SUIT NO. 09 A/1982 RAKESH KUMAR AND OTHERS VERSUS S.D.O. RAJNANDGAON AND OTHERS WHICH IS ANNEXED AS **ANNEXURE A-2**.

ANNEXURE A-1

ANNEXURE A-2

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... S.A No. 23/..... **सन्** 2006

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

11.12.2006

Shri Komal Pandey, Counsel for the appellants/plaintiffs.

Shri G.D.Vasvani, Government Advocate for the respondents No.1 & 2.

Heard on admission.

Brief facts of the case are that one Smt. Vidya Devi had filed Civil Suit No. 9-A of 1982 for declaration and permanent injunction on the ground that on 27.1.1970 she had agreed to purchase 41.56 acres land mentioned in Schedule-A to the plaint situated in village Bhansula from Shiv Shanker for a sum of Rs.10,500/- and had paid Rs.4,500/- on the date of agreement. The remaining consideration was to be paid at the rate of Rs.1000/- per year. It was also pleaded that Shiv Shanker had put Smt. Vidya Devi in possession of the suit land. It was also pleaded that on 13.01.1979 Vidya Devi had learnt for the first time that the suit lands had vested in the State under the M.P. Ceiling on Agricultural Holdings Act.

It is not disputed that registered sale deed was not executed by Shiv Shanker. It is also not disputed by learned counsel for the appellants/plaintiffs that no suit for specific performance of the contract was instituted by Smt. Vidya Devi. Smt. Vidya Devi died during the pendency of the Civil Suit. Her legal representatives were brought on record. The learned lower Court held that no valid title had passed on Smt. Vidya Devi by agreement dated 27.1.1970

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

which was executed merely to scuttle the provisions of M. P. Ceiling on Agricultural Holdings Act. On these premises, the learned Civil Judge Class-I, Rajnandgaon dismissed the suit. Aggrieved by the said judgment, the legal representatives of Smt. Vidya Devi preferred First Appeal No. 52-A of 2003 before the learned District Judge, Rajnandgaon. Recording a concurrent finding, the First Appeal was also dismissed.

I have perused the record of Civil Suit No. 9-A of 1982 and have also perused the judgment of the lower Court as also that of the First Appellate Court. I am of the considered opinion that no substantial question of law is involved in this appeal. This appeal is dismissed at the stage of admission.

Consequently, M.C.P.No.62 of 2006 for stay and I.A.No.205 of 2006 stand dismissed. No order as to costs.

Sd-/
Dilip Raosaheb Deshmukh
Judge

Ayam